

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF RHODE ISLAND

IN RE: STEPHEN E. KELLEHER CHAPTER 7
MARY ELIZABETH KELLEHER NO. 12-11935

Debtors

**CHAPTER 7 TRUSTEE'S OBJECTION
TO CLAIM #3 OF eCAST SETTLEMENT CORPORATION**

Charles A. Pisaturo, Jr., the chapter 7 trustee in the above captioned case, hereby objects to the following claim for the reasons set forth herein:

1. Claimant: eCast Settlement Corporation
c/o Bass & Associates, P.C.
3936 E. Ft. Lowell Road, Suite 200
Tucson, AZ 85712
2. Amount of Claim: \$249.51
3. Reason for Objection: Claim #3 is against only Mary Kelleher, the joint debtor in this case. The asset liquidated for distribution to creditors was a medical malpractice claim owned solely by the debtor, Stephen Kelleher. There are no other non-exempt assets of which the trustee is aware. The bankruptcy estates of Stephen and Mary Kelleher have not been substantively consolidated under 11 U.S.C. § 302. Thus, the trustee believes that claim #3 against Mary Kelleher cannot be paid from the assets of debtor Stephen Kelleher.

When a joint bankruptcy petition is filed by a husband and wife, in the absence of consolidation under 11 U.S.C. § 302(b), the two bankruptcy estates remain separate, with each debtor required to separately schedule his or her individual and joint assets, debts and exemptions, with claims against each debtor having to be separately filed, and with the separate property of one debtor is protected from the claims of the other debtor's creditors. In re

Hamilton, Slip Copy, 2010 WL 3909240, Bkrtcy.S.D.Ill., 2010 (citing, 2 *Collier on Bankruptcy*

¶ 302.02[1][b], at 302-7 (16th ed.2010). In the instant case, there has been no consolidation of the debtors' estates.

WHEREFORE, the trustee requests that the Court deny and disallow claim number 3, and for such other and further relief as is just.

January 4, 2016

/s/Charles A. Pisaturo, Jr.

CHARLES A. PISATURO, JR. (REG. NO. 4615)
Trustee
Law Offices of Charles A. Pisaturo, Jr.
1055 Elmwood Avenue
Providence, RI 02907
TEL: (401) 274-3800
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NOTICE

Within fourteen (14) days after service as evidenced by the certification, and an additional three (3) days pursuant to Fed. R. Bank. P. 9006(f) if served by mail, any party against whom such paper has been served, or any other party who objects to the relief sought, shall serve and file an objection or other appropriate response to said paper with the Bankruptcy Court Clerk's Office, 380 Westminster Street, 6th Floor, Providence, RI 02903, (401) 626-3100. If no objection or other response is timely filed, the paper will be deemed unopposed and will be granted unless: (1) the requested relief is forbidden by law; (2) the requested relief is against public policy; or (3) in the opinion of the Court, the interest of justice requires otherwise. If you timely file such a response, you will be given thirty (30) days notice of the hearing date for this objection.

CERTIFICATE OF SERVICE

I hereby certify that on the 4th day of January, 2016, I served by electronic filing (ECF), or by first-class mail, postage pre-paid, a true copy of the within CHAPTER 7 TRUSTEE'S OBJECTION TO CLAIM #3 to the following parties: Gary L. Donahue, Esq., Assistant U.S. Trustee, James E. Kelleher, Esq.:

eCast Settlement Corporation
c/o Bass & Associates, P.C.
3936 E. Ft. Lowell Road, Suite 200
Tucson, AZ 85712

Amato A. DeLuca
DeLuca & Weizenbaum
199 North Main Street
Providence, RI 02903

Recovery Management Systems Corporation
On Behalf of GE Consumer Finance For GE Money Bank
25 SE 2nd Avenue, Suite 1120
Miami, FL 33131

State of RI - Division of Taxation
RI Division of Taxation
Bankruptcy Unit
One Capitol Hill
Providence, RI 02908-5800

eCAST Settlement Corporation
c/o Bass & Associates, P.C.
3936 E Ft. Lowell, Suite 200
TUCSON, AZ 85712

/s/ Jennifer Peters
Jennifer Peters
Law Offices of Charles A. Pisaturo, Jr.
1055 Elmwood Avenue
Providence, RI 02907